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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/981,125      | 10/16/2001  | David R. Cheriton    | 57002               | 5517             |

26327 7590 03/22/2007  
THE LAW OFFICE OF KIRK D. WILLIAMS  
PO BOX 61538  
DENVER, CO 80206-8538

|          |
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| EXAMINER |
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PARK, JUNG H

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2616

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 03/22/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/981,125 | <b>Applicant(s)</b><br>CHERITON, DAVID R. |  |
|                              | <b>Examiner</b><br>Jung Park         | <b>Art Unit</b><br>2616                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/27/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,6,8-11,13,15-27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,6,8-11,13,22 and 29-33 is/are allowed.
- 6) ☒ Claim(s) 15-17 and 23 is/are rejected.
- 7) ☒ Claim(s) 18-21 and 24-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Remarks of Pre-Brief Appeal*

1. Applicant's arguments, see pages 1-2, filed 11/27/2006, with respect to the rejection(s) of claim(s) 15 and 23 under US 102 rejection have been fully considered and are persuasive. Therefore, the rejection and the finality have been withdrawn. However, upon further consideration, a new ground(s) of rejection is applied with the same reference.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. Claims 15-17 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Merchant et al. (U.S. 5,408,463, hereafter "Merchant").

**Regarding claims 15 and 23,** Merchant discloses the system of claim 15 and the method of claim 23. Merchant discloses a packet switching system [and a method] comprising:

- a packet stream splitter (111-1 fig.1); and
- a first filter (101 & 119 within 116-1 fig.1) and a second filter (102 & 119 within 116-N fig.1) coupled to the packet stream splitter (as shown in fig.1), the first and the second configurable filters each including a normal operating state (note: normal operating state is equivalent to working state, therefore, initial state of the filters is normal operating state, otherwise the filter function is not operable);

- wherein the packet stream splitter is configured to provide a received packet stream to each of the first and the second configurable filters (fig.1 where the first interface 111-1 provides a received packet from an input line 110-1 to the first and the second filters); and
- wherein when the first and the second configurable filters are in their respective normal operating states (note: see above): a particular packet is forwarded only by one of the first and the second configurable filters (fig.1 where a particular packet forwarded only by one of the filters) and both the first and second configurable filters are configured to forward at least one packet (fig.1; col.3, ln.55-62 where the both filters forward at least one packet).

Regarding claim 16, Merchant further discloses, "the first configurable filter further includes an all packet forwarding state, wherein the first configurable filter is configured to switch between the normal operating state and the all packet forwarding state in response to a signal (active and standby modes, see col.2, ln.46-49)."

Regarding claim 17, Merchant further discloses, "the signal is generated in response to detection of an error condition affecting a set of packets forwarded by the second configurable filter (col.2, ln.46-49 where the failure of a first active module affects a set of packets forwarded by the standby module)."

***Allowable Subject Matter***

4. Claims 1, 6, 8-11, 13, 22, and 29-33 are allowed.
5. Claims 18-21 and 24-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of same reference.

At page 1-2, applicant argues, Merchant does not teach, "a particular packet is forwarded only by one of the first and the second configurable filters". In reply, a particular packet is forwarded only by one of the first filter (101 and 119 fig.1) and the second filters (102 and selector fig.1).

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung Park whose telephone number is 571-272-8565. The examiner can normally be reached on Mon-Fri during 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

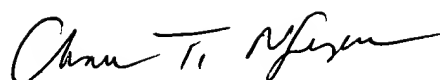
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 2616

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JP

Jung Park  
Patent Examiner

A handwritten signature in cursive script, appearing to read "Chau Ti Nguyen".

**CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600**